

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14205, of Merlyn P. Francis, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3102.425 to use all floors and basement of the subject premises as a community residence facility for five residents and two staff where another such facility is located within the same square and others located in different squares but within 500 feet of the subject structure in an R-3 District at premises 921 Farragut Street, N.W., (Square 3007, Lot 43).

HEARING DATES: November 14, 1984 and January 30, 1985
DECISION DATE: January 30, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The application was first scheduled for the public hearing of November 14, 1984. The application appeared on the preliminary calendar for that date since the applicant failed to comply with Section 302.3 of the Supplemental Rules of Practice and Procedure before the BZA. No affidavit was filed with the Board evidencing that the subject property had been posted. Prior to the public hearing date, the staff attempted to contact the applicant but was advised that the applicant was out of town due to an illness in the family. No representative of the applicant appeared at the public hearing of November 14, 1984. The Chair continued the case to the public hearing of January 30, 1985.

2. The subject premises, known as 921 Farragut Street, N.W., is located on the north side of Farragut Street, mid-block between Georgia Avenue and 9th Street, N.W. It is located in an R-3 District.

3. The site measures twenty feet wide by 100 feet deep, with a total land area of 2,000 square feet. It is improved with a two story plus basement brick rowhouse. The subject structure is currently used as a community residence facility for four adult women of varying ages.

4. The surrounding area, north, east and south of the subject structure, is zoned R-3. It is characterized by row dwellings of height, bulk and design similar to the subject structure. To the west of the subject premises, along Georgia Avenue, N.W., is a C-2-A commercial district. The C-2-A District in the vicinity of Farragut Street contains a

variety of small scale retail uses including the vacant Colony movie theater.

5. The applicant is seeking permission to expand the capacity of the existing community residence facility from four to five women. The number of staff will remain constant at two. The staff includes the applicant, who resides next door at 919 Farragut Street, N.W., and her sister, who resides at the subject premises.

6. Under Paragraph 3101.34 a community residence facility (CRF) with five residents is a use permitted as a matter-of-right in an R-3 District provided there is no property containing an existing community based residential facility (CBRF) for five or more persons in the same square or within a radius of 500 feet from the subject property. Information supplied by the Deputy Zoning Administrator suggests there is one CBRF in the same square and two CBRF's within 500 feet of the subject premises. Thus, the applicant is seeking a special exception under Sub-paragraph 3102.425. This Sub-paragraph empowers the Board to approve a CRF when there are others within the cited distances and the cumulative effect of all the CBRF's has no adverse impacts, such as noise, traffic, etc., upon the neighborhood.

7. The subject facility has been operating for three years. All four current residents of the subject facility are females and all were discharged from St. Elizabeth's Hospital. One works, one goes out daily and the remaining two go out on supervised programs. All the residents are monitored through the social service department of St. Elizabeth's. Twice a month they return to St. Elizabeth's for their medication.

8. There are two beds to a room. None of the residents drive. They have few visitors, and then mostly during the holiday seasons.

9. There is a garage on site that accommodates two cars.

10. The Office of the Zoning Administrator provides the listing of existing CBRF's. There appear to be several in existence either within the subject square or within 500 feet of the subject structure. Of two listed by the Office of Planning, one facility had no certificate of occupancy and the existence of the other was questionable. The applicant testified that the facility at 917 Farragut Street, N.W. had one resident. The facility at 5016 9th Street, N.W. houses young men who are picked up by a bus.

11. The Office of Planning (OP), by report dated November 7, 1984, recommended approval of the application. The OP further reported that but for the presence of other

CRF's in the neighborhood, a CRF for five residents was a use permitted as a matter-of-right. The addition of one resident to an existing CRF will not exacerbate cumulative impacts which the OP noted are virtually nonexistent. The proposed CRF will impose few impacts of its own in terms of noise, traffic, or parking upon the surrounding neighborhood. Thus, the requested special exception is in harmony with the general purpose and intent of the regulations, and it will not adversely effect the use of neighborhood property. The Board concurs with the reasoning and recommendation of the OP.

12. The Department of Consumer and Regulatory Affairs, by memorandum dated November 8, 1984, reported that the Service Facility Regulation Administration issued license No. 424 to Mrs. Merlyn P. Francis to operate a community residence facility at 921 Farragut Street, N.W. The approved licensed capacity is for six individuals, four residents and two others. The applicant had discussed her desire to increase the resident capacity by one. This facility received its initial license in 1983 and provides residential living and services for the mentally ill. The program provided by Mrs. Francis is an excellent one. The Department further reported that residents in licensed community residential facilities are supervised in their activities of daily living. Many are involved in day treatment programs and senior citizens programs during the day. Licensed community residence facilities are inspected and monitored by the Service Facility Regulation Administration and appropriate sponsoring D.C. Government social agencies. The Board concurs in the report of the DCRA.

13. The Department of Public Works, by memorandum dated November 7, 1984, reported that Georgia Avenue is a minor arterial with a sixty foot wide roadway and an average daily traffic volume of 24,700 vehicles near the site. Metered parking is allowed on both sides of the street between 7:00 A.M. and 6:30 P.M. Farragut and 9th Streets are thirty foot wide local streets. Unrestricted parking is permitted on both sides of both streets. The site is served by three Metrobus routes, the 70, 71 and 73, which run along Georgia Avenue. According to the applicant, the five people who will live at the site do not own cars. One of the two staff members lives next door to the site and keeps her car in a garage. Visitors to the site are few. Accordingly, the DPW was of the opinion that this proposal would not significantly affect transportation conditions on the surrounding streets. The Board concurs in the recommendation of the DPW.

14. Advisory Neighborhood Commission 4D made no recommendation on the application.

15. A Single Member District Commissioner testified at the public hearing in favor of the application. The Commissioner testified that she had personally visited the site and spoken with some neighbors. There were no adverse concerns expressed about the operation and maintenance of the facility.

16. There was one letter of opposition on record. The opposition stated that it was their opinion that the proposal would disturb the quiet and peacefulness of their community. The Board finds that such concerns are not corroborated by probative evidence. The Board is persuaded by the reports from the government agencies and the testimony of the applicant and the ANC Commissioner.

CONCLUSIONS OF LAW AND OPINION:


Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires a showing through substantial evidence that the applicant has complied with the requirements of Sub-paragraph 3102.425 and that the relief requested under Sub-section 8207.2 can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property.

The Board concludes that the applicant has met her burden of proof. While there may be other facilities in the subject area, the Board concludes that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise or operations. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 4-0 (Douglas J. Patton, William F. McIntosh, Charles R. Norris and Carrie L. Thornhill to grant; Patricia N. Mathews not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 20 MAR 1985

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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